

STATE OF INDIANA)
) SS:
 COUNTY OF ALLEN)
)
 APRIL T. BRADFORD,)
)
 Plaintiff,)
)
 v.)
)
 ZIMMER BIOMET, INC.)
)
 Defendant.)

IN THE ALLEN SUPERIOR COURT

CAUSE No. _____

COMPLAINT

COMES NOW Plaintiff, by counsel, and alleges against Defendant that:

1. The Plaintiff is April T. Bradford, a qualified African American female citizen of the United States currently residing in Fort Wayne, who at all times relevant to this Complaint lived in Allen County, Indiana. The Plaintiff is an "Employee" for the purposes of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *e et seq.* ("Title VII").
2. The Defendant, Zimmer Biomet, Inc., is an Indiana limited liability corporation. Its headquarters is located at 345 East Main Street, Warsaw, Indiana 46580. Its registered agent is Corporation Service Company, 135 North Pennsylvania, Suite 1610, Indianapolis, Indiana 46204. The Defendant is an employer for the purposes of Title VII and 42 U.S.C. § 1981.
3. Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission, Charge No. 470-2020-00699 on or about November 21, 2019. A copy that charge is attached hereto, and incorporated herein as "Exhibit A". Plaintiff received notice of her right to sue on or about February 11, 2020. A copy

of the notice is attached hereto, and incorporated herein as “Exhibit B”. This Complaint has been timely filed within 90 days after receipt of the notice.

4. The relevant facts are that Plaintiff worked for Defendant from on or May 26, 2017 until her termination on or about August 23, 2019. Plaintiff had a layoff period from April 17, 2018, returning to employment on August 16, 2018.
5. Plaintiff worked for the Defendant as a cell support until her layoff, and then rehired with a promotion, as a robotic finisher, until she was discharged for a false and pre-textual reason.
6. Plaintiff received promotions and good reviews, the Plaintiff was repeatedly overlooked for permanent jobs, and those jobs were given to lesser qualified, white, temporary workers, with less experience doing the work than the Plaintiff. Plaintiff even received a bonus for working every day for months in 2019.
7. The Plaintiff was the only female, and the only African American in the department, on her shift, until recently when one (1) white woman was displaced to her department.
8. When Plaintiff complained to Human Resources about being passed over for a third time for a permanent position, “Abbey” in HR did not return a call to the Plaintiff, but instead called the hiring supervisor and told him to tell the Plaintiff falsely that the white men hired had been with Zimmer for years and were not temporary workers and that the Defendant always hires from within the company first. This was false.

9. Immediately after Plaintiff complained to HR (at the direction of her supervisor, Joshua Masters) about being passed over for permanent jobs, she was terminated.
10. Plaintiff contends that other similarly situated white males, and one white female were not laid off back in April of 2018, despite being less qualified, and with less tenure than the Plaintiff. Plaintiff contends that the stated reasons for ending the Complainant's employment was pretextual.
11. The Plaintiff alleges she was discriminated against in violation of Title VII because of her race, African American, and her color Black, as well as because of her sex, female, and also in retaliation for her complaining about the discriminatory hiring practices of the Defendant.
12. The actions of the Defendant employer were deliberate, retaliatory and in violation of the Complainant's civil rights, as promulgated under Title VII, and 42 USC § 1981.
13. As a result of the Defendant's deliberate discriminatory action, the Plaintiff suffered loss of her job, loss of income and other benefits, emotional distress, humiliation and other damages and injury.

WHEREFORE, Plaintiff prays for judgment against the Defendant for all compensatory damages (including back pay and front pay), punitive damages, declaratory and injunctive relief (that Defendant's actions were in violation of Title VII, reasonable attorney fees and costs, and any and all equitable and legal relief available under Title VII and 42 U.S.C. § 2000e *et seq.*, and the state laws of Indiana.

JURY DEMAND

Pursuant to Rule 38 of the Indiana Rules of Trial Procedure, Plaintiff demands a trial by jury in this action.

Respectfully submitted,

CHRISTOPHER C. MYERS & ASSOCIATES

/s/ Christopher C. Myers

Christopher C. Myers, #10043-02
809 South Calhoun Street, Suite 400
Fort Wayne, IN 46802
Telephone: (260) 424-0600
Facsimile: (260) 424-0712
Email: cmyers@myers-law.com
Attorney for Plaintiff

11/22/2019 11:02 AM

NOV/22/2019/FRI 01:02 PM

FAX No.

P. 005

EEOC Form 6 (11/03)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC 470-2020-00100**Equal Employment Opportunity Commission**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

April T. Bradford

Home Phone (incl. Area Code)

260-310-2276

Date of Birth

12/23/77

Street Address

City, State and ZIP Code

4316 Alverado Drive, Fort Wayne IN 46816

Named Is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

Zimmer Biomet

No. Employees, Members

25+

Phone No.

800-613-6131

Street Address

City, State and ZIP Code

1800 West Center Street, Warsaw IN 46580

Name

Adecco Staffing

No. Employees, Members

15+

Phone No. (Include Area Code)

674-549-6228

Street Address

City, State and ZIP Code

2516 Walton Blvd, Warsaw In 46580

DISCRIMINATION BASED ON (Check appropriate box(es))

☒

RACE

☐

COLOR

Hostile Work Environment

☒

SEX

☐

RELIGION

☐

NATIONAL ORIGIN

☒

RETALIATION

☐

AGE

☐

DISABILITY

☐

GENETIC INFORMATION

DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest

July 2018

Dec 2018

☒

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s))

- I. The Complainant is a qualified African American/Black female who began working for Respondent Zimmer Biomet through Adecco Staffing, a recruitment agency on May 26, 2017. Complainant received promotions and good reviews, the Complainant was repeatedly overlooked for permanent jobs, and those jobs were given to lesser qualified, white, temporary workers, with less experience doing the work than the Complainant. At all times while working for Respondents, Respondents were qualified dual employers pursuant to Title VII.
- II. When Complainant complained to HR, about being passed over for a third time for a permanent position, Abbey in HR did not return a call to the Complainant, but instead called the hiring supervisor and told him to tell the Complainant falsely that the white men hired had been with Zimmer for years and were not temporary workers. This was false. The Complainant was the only female, and the only African American in the department until recently when one (1) white woman was hired. Immediately after Complainant complained to HR she was transferred to a different department. Complainant was the only person in the department who was transferred on August 23, 2019. Other similarly situated white males, and one white female were not laid off despite being less qualified, and with less tenure than the Complainant. The stated reasons for ending the Complainant's employment was pretextual.

- Continued on Page 2 -

EXHIBIT

A

11:32:42 a.m. 11-22-2019

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FAX No.

P. 006

- III. The Complainant alleges she was discriminated against in violation of Title VII because of her race, African American, and her color Black, as well as because of her sex, female, and also in retaliation for her complaining about the discriminatory hiring practices of the Respondent. The actions of the Respondent employers were deliberate, retaliatory and in violation of the Complainant's civil rights, as promulgated under Title VII, and 42 USC § 1981. As a result of the Respondents deliberate discriminatory action, the Complainant suffered loss of her job, loss of income and other benefits, emotional distress, humiliation and other damages and injury.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

11-21-19

Date



Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

11/21/19

Janelle D. Guin
Notary Public State of Indiana
Allen County
Commission Number NP0723383
Commission Expires 10/31/2027

DISMISSAL AND NOTICE OF RIGHTS

To: **April T. Bradford**
4316 Alverado Drive
Fort Wayne, IN 46816

From: **Indianapolis District Office**
101 West Ohio Street
Suite 1900
Indianapolis, IN 46204

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

470-2020-00699

Marc A. Fishback,
Enforcement Supervisor

(463) 999-1179**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

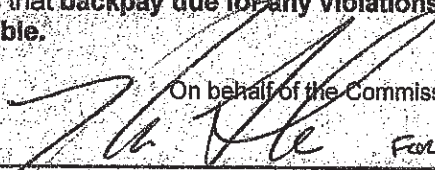
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



For:

Michelle Eisele,
District Director

FEB 11 2020

(Date Mailed)

Enclosures(s)

cc: **ZIMMER BIOMET**
ATTN: Susan Kline
Faegre Baker Daniels LLP
300 N. Meridian St., Suite 2500
Indianapolis, IN 46204

Cathy T. Serrano
CHRISTOPHER C. MYERS & ASSOCIATES
809 S. Calhoun St., Suite 400
Fort Wayne, IN 46802

EXHIBIT

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